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EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation in WT Docket No. 12-70, *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*; ET Docket No. 10-142, *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*; and WT Docket No. 04-356, *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH") submits this letter to provide additional support for the record regarding the substantial risk and delay that DISH faces if the technical standard governing its S-Band spectrum (2000-2020 MHz; 2180-2200 MHz) has to be reopened based upon final AWS-4 rules adopted in the above-referenced proceeding.

In order for DISH to proceed with its wireless initiatives, it must have a completed technical specification for its spectrum (2000-2020 MHz; 2180-2200 MHz) issued by the 3rd Generation Partnership Project ("3GPP"). This spectrum is defined at 3GPP as "Band 23," which was completed in June 2011. Subsequently, Band 23 was under challenge from Sprint Nextel Corporation ("Sprint") for a more than a year until November 2012, when the 3GPP RAN4 working group finally delivered an agreement of an emission limit of 70+10log(P) dB to protect the PCS G Block at 1990-1995 MHz.

Specifically, Sprint's intentional delay of this maintenance procedure at 3GPP began in November 2011 when they stated they needed more time to study the item. They continued to object at every meeting thereafter by requesting more time without providing any justification – technical or otherwise. Finally, in October 2012, the 3GPP RAN4 working group requested that Sprint should bring their proposed technical data to the November 2012 meeting. Sprint's contributions in the November meeting included incorrect analysis and did not produce any technical justification. Lacking any technical justification to object further and after delaying the

item for over one year, 3GPP RAN4 finally delivered agreement on the item, which was simply to import an FCC regulatory requirement into a portion of the Band 23 specification.

Despite Sprint's efforts, with this recent 3GPP agreement regarding Band 23, DISH is poised to rapidly enter the wireless market provided the Commission adopts commercially reasonable AWS-4 rules. If the final AWS-4 rules deviate from the 3GPP technical requirements, however, Band 23 likely will have to be re-opened.

Among other things, reopening Band 23 poses a substantial risk of delay, which was confirmed by statements made by Sprint at the November 13, 2012 RAN4 working group session with respect to G Block protection levels. Sprint's representative expressly stated, in reference to Band 23: *"We may need to reopen this discussion in the future when the FCC issues its new rules and that will be done under maintenance. Even if we agree now we will have to do this again very soon."*¹ Sprint has thus placed 3GPP on notice that it will support challenging Band 23 G Block protection levels once again after the Commission issues final AWS-4 rules. Attachment A contains the relevant excerpt from the meeting notes for the 3GPP TSG-RAN WG4 Meeting #65, held November 12-16, 2012 in New Orleans. In short, Sprint's past conduct of delay and its express reservation to challenge G Block protection levels, among other things, poses substantial risks to DISH's wireless plans if Band 23 is re-opened.

Respectfully submitted,

/s/ Jeffrey H. Blum

Jeffrey H. Blum

Attachment

¹ See Attachment, Sprint Nextel Corporation, Captured Statement, Meeting Minutes of the 3GPP RAN4 Meeting, New Orleans, at 41 (Nov. 13, 2012) (emphasis added), *available at* ftp://3gpp.org/tsg_ran/WG4_Radio/TSGR4_65/Report/.

ATTACHMENT: EXCERPT FROM 3GPP TSG-RAN WG4 Meeting #65
New Orleans, USA, 12–16 November 2012

.....
Band 23&25 co-existence

[...]

R4-126213 **Maintenance of Band 23 UE Coexistence**

36.101 CR-1466 (Rel-10) v..

Source: DISH Network

Abstract:

This CR is aligned with the RAN4 decision of coexistence agreement between Band 23 and Band 25.

Discussion:

Sprint: We have raised concern on this number many times. There is still some regulatory uncertainty associated in this part of the spectrum in US.

Chair: Category A CR is also needed.

Decision: **Agreed**

[...]

R4-126542 **Protection of legacy Band 25 UE's from simulated Band 23 UE's**

Source: Sprint

Abstract:

At RAN#64b Sprint proposed a measurement test plan to determine the proper OOB limit from Band 23 into legacy Band 25. This contribution presents measurements showing the impact that Band 23 UE's will have on legacy band 25 UE's after band 23 is deployed

Discussion:

Dish: What channel BWs and Refsens values are used?

Sprint: Per channel BW is actual measured refsens.

Dish: -101.8 dBm should be 96.5 dBm. We are not sure from where these numbers come from.

Sprint: Refsens values are based on 36.101.

Chair: Doc proposes to continue to study the impact. For how long this is proposed?

Last time the intention was to study until Nov 2011.

Sprint: If the group is interested to study we need more time.

Dish: One company has objected our CR for one year now. This just delays the CR intentionally without technical justification. H-block is not even auctioned yet. Auction of H-block may take more than a year. We ask if Qualcomm and Nokia support our CR.

Nokia: We still support -40 dBm limit.

Qualcomm: We still support -40 dBm limit.

Sprint: We have not objected the CR. We have raised concern. We are not blocking Band 23. We have tried to work with Dish. We don't want to delay but work further in this area. We may need to reopen this discussion in the future when the FCC issues its

new rules and that will be done under maintenance. Even if we agree now we will have to do this again very soon.

Dish: Can we then agree our CR?

Qualcomm: Tets methodology Sprint used is not in line with standard methodology.

Decision: Noted

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